IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7511 OF 2005

Raju Janu Kamble .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.R.D.Suryavanshi for applicant

Mrs.S.D.Shinde, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 24th November 2005.

P.C.

. Applicant is arrested in connection with C.R.No.145 of 2005 registered with Kolsewadi Police station, Kalyan for offences punishable

under sections 394, 397, 302 read with 34 I.P.C. A complaint was lodged by Mrs.B.B.Walde on 4th July 2005 stating therein that she resides at the premises mentioned therein with her husband, daughter and son. She pointed out that her son was not in the house at the relevant time as he had gone to college. In her first statement the complainant has stated that complainant herself along with her daughter went out of house. Her supplemental statements state that they left the house for the purpose of buying vegetables and the husband who had taken voluntary retirement was in the house. On their return from the market they found that the room door was open, the lid of vaccum cleaner had fallen aside. In the bed room, husband of complainant was lying on the bed in an injured condition. Cupboard was open and one gold necklece, three rings, three silver coins and one gold coin and Rs.2500 in cash was missing from the same. She took her husband to the hospital and on admission therein

he was declared dead. In the second statement, she had stated that her daughter was friendly with one Anand who is also resident of Kalyan and the said Anand had called her as well as her daughter to Kalyan railway station. On reaching there, they did not meet Anand and on enquiries being made at his residence said Anand was not found at his place. After waiting for him for some time at the railway station they returned back and when they reached home they found the door was opened and articles were stolen. Case then set up is that the said Anand had expressed his desire to marry daughter of complainant but her husband as well as brother refused and this enraged Anand and he along with applicant committed the offence.

2. The only submission of Mr.Suryavanshi in support is that assuming that the incident had taken place and that the statement of daughter as well as neighbours are recorded, as far as the

applicant is concerned, apart from a gold necklece being recovered there is no other act attributed to him. In these circumstances, as far as the present applicant is concerned, he cannot be charged with offences punishable under section 302 I.P.C. but at the most Section 411 of I.P.C. would be attracted.

3. In my view, considering the materials placed on record, it will not be possible to accept the submissions of Mr.Suryavanshi. At this stage, as to whether offence punishable under section 302 has been committed or the applicant could be held to be guilty of a lesser offence, cannot be decide. Materials which are placed on record cannot be scanned in the light of their evidentiary value at this stage. As far as present stage is concerned, prima facie a serious offence is disclosed. Gold necklece is one of the article stolen from the house of complainant. There is prima facie case to

connect the applicant to the offence in question, which is serious and punishable with death or life imprisonment. In these circumstances, it cannot be said that the applicant deserves to be enlarged on bail. Application stands rejected.

4. Any observations made by the trial court or by this Court are only for the purpose of disposal of bail application and shall not influence trial court while trying the case.

(S.C.DHARMADHIKARI, J)